

## Notice of Agency Waiver Amendment

**AGENCY:** Department of Health and Human Services, MaineCare Services

**RULE TITLE OR SUBJECT:** Chapter 101, MaineCare Benefits Manual, Section 18, Home and Community Based Services for Members with Brain Injury

**WAIVER:** ME.1082: Home and Community Based Services for Members with Brain Injury

**CONCISE SUMMARY:** The Department is planning to submit an amendment to the Adults with Other Related Conditions Home and Community Based Services (HSBS) 1915(c) waiver application, known in Maine as Section 18, Home and Community Based Services for Members with Brain Injury. Some of the proposed appendix updates contained in the waiver amendment:

### General:

- Where applicable, updated and revised language to align and create consistency with Maine's other 1915(c) HCBS waivers - ME.0995 (MBM Section 20), ME.0159 (MBM Section 21), and ME.0467 (MBM Section 29).
- Ensured compliance with MaineCare Benefits Manual Ch, I, Section 6, Global HCBS Waiver Person-Centered Planning and Settings Rule.
- Updated and revised *Home and Community-Based Settings Waiver Transition Plan* regarding Maine's Final Statewide Transition Plan for compliance with the HCBS Settings rule.

### Appendix A Waiver Administration and Operation:

- Updated and revised information regarding Medicaid Agency Oversight of Operating Agency Performance.
- Updated and revised information about agencies/entities with which the Department contracts.

### Appendix B Participant Access and Eligibility:

- Strengthened safeguards for waiver Participants by adding a "Request for Exceptions" process to ensure that Participants receive adequate and appropriate services and supports in the most integrated setting to meet their needs, consistent with the Americans with Disabilities Act (ADA), and with health and safety requirements.

### Appendix C Participant Services:

- Added services supporting self-direction (Financial Management Services, Supports Brokerage, Individual Goods & Services).
- Where applicable, updated Service Specifications and Provider Specifications for consistency with ME.0995, ME.0159, and ME.0467.
- Updated and revised requirements to permit 17-year-old Direct Support Professionals for some services.
- Updated and revised requirements for Criminal History and/or Background Investigations, and for Abuse Registry Screening.
- Added language related to Appendix E participant-directed services for State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians.
- Added basic requirements for enrollment and ongoing approval as waiver service providers, consistent with current MaineCare regulations currently applicable to ME.0159 (MBM Section 21) and ME.0467 (MBM Section 29).
- Updated and revised limits on maximum dollar amounts for certain HCBS waiver services where applicable.

### Appendix D: Participant-Centered Planning and Service Delivery:

- Updated and revised requirements that providers comply with Maine's Global HCBS Waiver Person-Centered Planning and Settings Rule (MBM, Ch. I, Section 6).
- Updated and revised the Person-Centered Service Planning (PCSP) planning process consistent with MBM, Ch. I, Section 6.

**Appendix E Participant Direction of Services:**

- Expanded opportunities for Participants to manage and control service and service delivery by adding Self-Direction as described in Appendix E.

**Appendix F Participant Rights:**

- Updated and revised Procedures for Offering Opportunity to Request a Fair Hearing.
- Updated and revised description of State Grievance/Complaint System to comply with 14-197 Chapter 8: Rule Describing Grievance Process For Persons with Intellectual Disabilities and Autism Spectrum Disorder or Acquired Brain Injury.

**Appendix G Participant Safeguards:**

- Updated and revised the description of Maine’s Reportable Events system.
- Updated and revised the description of information and training for participants, families, and legal representatives regarding abuse, neglect, and exploitation.
- Updated and revised the description of the responsibility for oversight, review of, and response to critical incidents and reportable events.
- Updated and revised *Safeguards Concerning Restraints and Restrictive Interventions* Updated and revised *Medication Management and Administration* for clarity and consistency with ME 0159 (Section 21).
- Revised Performance Measures.

**Appendix H Quality Improvement Strategy:**

- Updated and revised description of System Improvements.
- Added provisions for Plan of Corrective Action (POCA) process to ensure providers’ compliance with regulations and quality service delivery.
- Updated and revised the description of the process for monitoring and analyzing the effectiveness of system design changes.

**Appendix I Financial Accountability:**

- Financial Integrity: revised updated and for clarity, and for consistency with Maine’s other waivers.
- Rate Determination Methods: substantially revised to reflect recently passed State legislation providing annual Cost of Living Adjustments (COLA) and requiring the labor components of rates to equal at least 125% of the State minimum wage for essential workers.

**Appendix J Cost-Neutrality Demonstration:**

- Updated and revised *Cost Neutrality and Derivation of Estimates* for the final two years of this five-year waiver cycle (through July 1, 2025).

Please see the accompanying draft application for a complete list of all proposed changes included in the amendment.

DHHS is accepting comments through Sunday, May 14, 2023. Any interested party may obtain a copy of the waiver application by going to the website noted below or at any regional Office for Family Independence (a list of the offices and locations can be found at this link <http://www.maine.gov/dhhs/ofi/offices/index.html>). A printed copy may be obtained by calling Lisa Weaver at (207) 624-4050 or emailing [lisa.weaver@maine.gov](mailto:lisa.weaver@maine.gov).

See <http://www.maine.gov/dhhs/oms/rules/index.shtml> for waiver amendment and to submit comments.

**STATUTORY AUTHORITY:** CFR §441.304

**DEADLINE FOR COMMENTS:** Comments must be received by 11:59 pm, May 14, 2023.

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